

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

SCOTT PHILLIP LEWIS,

Plaintiff,

- v -

Civ. No. 8:24-CV-29
(DNH/DJS)

CITIZEN ADVOCATES, INC.,

Defendant.

APPEARANCES:

OF COUNSEL:

SCOTT PHILLIP LEWIS
Plaintiff *Pro Se*
Lake Placid, New York 12946

DANIEL J. STEWART
United States Magistrate Judge

REPORT-RECOMMENDATION and ORDER¹

The Complaint in this action was filed January 8, 2024. Dkt. No. 1, Compl. On February 22, 2024, the undersigned issued a Report-Recommendation pursuant to 28 U.S.C. §1915(e) recommending that the Complaint be dismissed based on several legal deficiencies, none of which related to the identity of the named Defendant. Dkt. No. 13. For example, the Court recommended dismissal based on the insufficiency of the factual pleading and the unavailability of certain relief sought in the Complaint. *Id.* at pp. 4-6. The District Court adopted the Report-Recommendation and granted Plaintiff the

¹ This matter was referred to the undersigned pursuant to L.R. 72.3(d).

opportunity to amend. Dkt. No. 22. Plaintiff's Amended Complaint is now before this Court for review under section 1915(e). *See* Dkt. No. 23, Am. Compl.

A review of the Amended Complaint demonstrates that it is in all respects identical to the original Complaint except that it changes the identity of the named Defendant in the caption from Citizens United, Inc. to Citizen Advocates, Inc. Significantly, both the Complaint and Amended Complaint identify the Defendant as Citizen Advocates in the factual allegations. Compl. at ¶ 2; Am. Compl. at ¶ 2. No other changes have been made by Plaintiff in the Amended Complaint. As a result, the new pleading does nothing to remedy the defects that previously warranted dismissal and the Court recommends dismissal of the Amended Complaint for the same reasons as set forth in the original Report-Recommendation. *See* Dkt. No. 13.

ACCORDINGLY, it is hereby

RECOMMENDED, that Plaintiff's Amended Complaint be **DISMISSED**; and it is

ORDERED, that the Clerk of the Court serve a copy of this Report-Recommendation and Order upon the parties to this action.

Pursuant to 28 U.S.C. § 636(b)(1), the parties have fourteen (14)² days within which to file written objections to the foregoing report. Such objections shall be filed

² If you are proceeding *pro se* and are served with this Order by mail, three additional days will be added to the fourteen-day period, meaning that you have seventeen days from the date the order was mailed to you to serve and file objections. FED. R. CIV. P. 6(d). If the last day of that prescribed period falls on a Saturday, Sunday, or legal

with the Clerk of the Court. **FAILURE TO OBJECT TO THIS REPORT WITHIN FOURTEEN (14) DAYS WILL PRECLUDE APPELLATE REVIEW.** *Roldan v. Racette*, 984 F.2d 85, 89 (2d Cir. 1993) (citing *Small v. Sec'y of Health and Human Servs.*, 892 F.2d 15 (2d Cir. 1989)); *see also* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72 & 6(a).

Date: August 15, 2024
Albany, New York



Daniel J. Stewart
U.S. Magistrate Judge

holiday, then the deadline is extended until the end of the next day that is not a Saturday, Sunday, or legal holiday.
FED. R. CIV. P. 6(a)(1)(C).